

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

August 26, 2002

Dear Xxxxx:

This letter is in response to your letter dated June 1, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I have had various discussions with EMPLOYEES of your office; in which they were trying to determine the taxability of a product that we sell and they were investigating in an audit of one of our customers.

I have tried to get final resolution to the outcome of this audit and subsequent hearing, and have been advised to contact you for this information.

We have been led to believe that this product is not taxable and we would appreciate the decision reached on the taxability of the product: 'Dry Film Resist' as used in the printed circuit board industry.

If you need any questions, or need any other information, please get in touch with me. We would like this information to us as soon as possible.

DEPARTMENT'S RESPONSE:

We cannot provide you with confidential taxpayer information that is obtained in an audit or hearing. If you request a Private Letter Ruling from our office and provide us with greater detail as to how "Dry Film Resist" is used in the printed circuit board industry, we can provide you with a decision on the taxability of this product. We apologize for the delay in responding to your inquiry, and we will expedite any request for a Private Letter Ruling you may send us. We have set out below some general information that provide you some guidance if you do not wish to request a Private Letter Ruling.

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

Generally, the use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold will be considered to constitute an exempt use under the manufacturing machinery and equipment exemption. 86 Ill. Adm. Code 130.330(c)(6) states as follows:

The exemption includes chemicals acting as catalysts only if they effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. The following examples are illustrative:

- A) Example 1. A chemical acid is used to etch copper off the surface of a printed circuit board during the manufacturing process. The acid causes a direct and immediate change upon the product. The acid qualifies for the exemption.
- B) Example 2. An aluminum oxide catalyst is used in a catalytic cracking process to refine heavy gas oil into gasoline. In this process, large molecules of gas oil, or feed are broken up into smaller molecules. After the catalyst is injected into the feed and used in the cracking process, it is drawn off and reused in subsequent manufacturing processes. The catalyst qualifies for the exemption.

Please note that the manufacturing machinery and equipment exemption does not extend to supplies. Consumable supplies used in a manufacturing process are subject to tax. However, to the extent that the chemical physically becomes a physical part of the product being manufactured for sale, it can be purchased for resale. Also, please note that the resale exemption applies to items which, although purchased for use, are resold as an ingredient of an intentionally produced product or byproduct of

manufacturing. Therefore, if the chemical is an intentional byproduct of manufacturing, then it can be purchased for resale.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.